

CHAPTER 128

SECURITIES, INSURANCE, AND REGULATION OF CEMETERY AND FUNERAL MERCHANDISE AND SERVICES

H.F. 632

AN ACT relating to various matters involving insurance and the insurance division of the department of commerce and including effective date and retroactive applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 22.7, subsection 58, Code 2015, is amended to read as follows:

58. Information filed with the commissioner of insurance pursuant to sections 523A.204 and, 523A.205, 523A.206, 523A.207, 523A.401, 523A.502A, and 523A.803.

Sec. 2. Section 502.103, Code 2015, is amended to read as follows:

502.103 References to federal statutes.

“*Securities Act of 1933*”, 15 U.S.C. §77a et seq.; “*Securities Exchange Act of 1934*”, 15 U.S.C. §78a et seq.; “*Public Utility Holding Company Act of 1935*”, 15 U.S.C. §79 et seq.; “*Investment Company Act of 1940*”, 15 U.S.C. §80a-1 et seq.; “*Investment Advisers Act of 1940*”, 15 U.S.C. §80b-1 et seq.; “*Employee Retirement Income Security Act of 1974*”, 29 U.S.C. §1001 et seq.; “*National Housing Act*”, 12 U.S.C. §1701; “*Commodity Exchange Act*”, 7 U.S.C. §1 et seq.; “*Internal Revenue Code*”, 26 U.S.C. §1 et seq.; “*Securities Investor Protection Act of 1970*”, 15 U.S.C. §78aaa et seq.; “*Securities Litigation Uniform Standards Act of 1998*”, 112 Stat. 3227; “*Small Business Investment Act of 1958*”, 15 U.S.C. §661 et seq.; and “*Electronic Signatures in Global and National Commerce Act*”, 15 U.S.C. §7001 et seq.; and “*Dodd-Frank Wall Street Reform and Consumer Protection Act*”, Pub. L. No. 111–203 mean those federal statutes and the rules and regulations adopted under those federal statutes, as in effect on January 1, 2005 2015.

Sec. 3. Section 502.202, Code 2015, is amended by adding the following new subsection:
NEW SUBSECTION. 24. Intrastate crowdfunding.

a. *Definitions.* As used in this subsection, unless the context otherwise requires:

(1) “*Intermediary*” means a broker-dealer that is subject to the registration requirements of section 502.401 and that facilitates the offer and sale of securities by issuers to investors through an internet-based system that is open to and accessible by the general public. “*Intermediary*” also means an entity registered with the administrator as an Iowa crowdfunding portal.

(2) “*Intrastate crowdfunding*” means the offer or sale of a security by an issuer in a transaction that is available for purchase only by Iowa residents and by business organizations located in, and organized and registered under the laws of, this state.

(3) “*Iowa crowdfunding portal*” means an entity incorporated or organized under the laws of this state, authorized to do business in this state, and engaged exclusively in intrastate crowdfunding offers and sales of exempt securities in this state through an internet site and which does not operate or facilitate a secondary market in securities.

b. *Exemption not available.* The exemption in this subsection is not available to any of the following:

(1) A foreign issuer.

(2) An investment company, as defined in section 3 of the federal Investment Company Act of 1940.

(3) A development stage company that either has no specific business plan or purpose or has indicated that the company’s business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.

(4) A company with a class of securities registered under the federal Securities Exchange Act of 1934.

(5) Any person who is subject to a disqualifying event as described in the regulations adopted in accordance with section 926 of the federal Dodd-Frank Wall Street Reform and

Consumer Protection Act, Pub. L. No. 111-203, or in rules adopted by the administrator pursuant to chapter 17A.

c. Aggregate sales limit. The aggregate amount of securities sold to all investors by the issuer during the twelve-month period preceding the date of the offer or sale, including any amount sold in reliance upon the exemption in this subsection, shall not exceed one million dollars other than either of the following:

- (1) Securities sold to Iowa resident institutional investors.
- (2) Securities sold to the Iowa resident issuer's management.

d. Individual sales limit. The aggregate amount of securities sold to an investor by the issuer during the twelve-month period preceding the date of the offer or sale, including any amount sold in reliance upon the exemption in this subsection, shall not exceed five thousand dollars unless the investor is an accredited investor who resides in Iowa. For purposes of this individual sales limit, the following investors shall be treated as one investor:

(1) A relative, spouse, or relative of the spouse of an investor who has the same principal residence as the investor.

(2) A trust or estate in which an investor and any related person collectively have more than fifty percent of the beneficial interest, excluding contingent interests.

(3) A corporation or other organization of which an investor and any related person collectively are beneficial owners of more than fifty percent of the equity securities, excluding directors' qualifying shares, or equity interests.

e. Use of an intermediary. All offers and sales of securities made in reliance upon the exemption in this subsection shall be made through an intermediary's internet site.

f. Notice to administrator. Prior to the offer of any security in this state made in reliance upon the exemption in this subsection, the issuer shall file a notice with the administrator in a form and format approved by the administrator, and including the filing fee specified by rule, if any.

g. Rulemaking. The administrator shall adopt all rules necessary to implement the exemption in this subsection including but not limited to all of the following:

- (1) Mandatory disclosures.
- (2) Restrictions on advertising and communications.
- (3) Target amount, offering period, and escrow requirements.
- (4) Use and compensation of promoters.
- (5) Restrictions on the sale of securities purchased under the exemption in this subsection.
- (6) Sales reports.
- (7) Limitations on the offering price.
- (8) Duties of an intermediary which shall include providing the administrator with continuous investor-level access to the intermediary's internet site.
- (9) Records maintenance.
- (10) Duties and registration requirements for internet site operators.

Sec. 4. Section 502.302, subsection 1, paragraph a, subparagraph (1), Code 2015, is amended to read as follows:

(1) A person who is the issuer of a federal covered security under section 18(b)(2) of the Securities Act of 1933 shall initially make a notice filing and annually renew a notice filing in this state ~~for an indefinite amount or a fixed amount. The fixed amount must be for two hundred fifty thousand dollars.~~

Sec. 5. Section 502.302, subsection 1, paragraph a, subparagraph (2), unnumbered paragraph 1, Code 2015, is amended to read as follows:

A notice filer shall pay a filing fee in the amount of four hundred dollars when the notice is filed. ~~If the amount covered by the notice is indefinite, the notice filer shall pay a filing fee of one thousand dollars. If the amount covered by the notice is fixed, the notice filer shall pay a filing fee of two hundred fifty dollars, and all of the following shall apply:~~

Sec. 6. Section 502.302, subsection 1, paragraph a, subparagraph (2), subparagraph divisions (a) and (b), Code 2015, are amended by striking the subparagraph divisions.

Sec. 7. Section 502.302, subsection 2, Code 2015, is amended to read as follows:

2. *Notice filing effectiveness and renewal.* A notice filing under subsection 1 is effective for one year commencing on the later of the notice filing or the effectiveness of the offering filed with the securities and exchange commission. On or before expiration, the issuer may renew a notice filing by filing a copy of those records filed by the issuer with the securities and exchange commission that are required by rule or order under this chapter to be filed and by paying the a renewal fee required by subsection 1, paragraph "a" of four hundred dollars. A previously filed consent to service of process complying with section 502.611 may be incorporated by reference in a renewal. A renewed notice filing becomes effective upon the expiration of the filing being renewed.

Sec. 8. Section 502.412, subsection 9, Code 2015, is amended to read as follows:

9. *Limit on investigation or proceeding.* The administrator shall not institute a proceeding under subsection 1, 2, or 3 based solely on material facts actually known by the administrator unless an investigation or the proceeding is instituted within ~~one year~~ two years after the administrator actually acquires knowledge of the material facts.

Sec. 9. Section 505.26, Code 2015, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The commissioner shall adopt rules pursuant to chapter 17A that provide requirements, not to exceed seventy-two hours for urgent claims and five calendar days for non-urgent claims, for a health carrier or pharmacy benefits manager to respond to a health care provider's request for prior authorization of prescription drug benefits or to request additional information from a health care provider concerning such a request.

Sec. 10. Section 511.8, subsection 5, paragraphs a and b, Code 2015, are amended to read as follows:

a. (1) If fixed interest-bearing obligations, the net earnings of the issuing, assuming, or guaranteeing corporation available for its fixed charges for a period of five fiscal years next preceding the date of acquisition of the obligations by such insurance company shall have averaged per year not less than one and one-half times such average annual fixed charges of the issuing, assuming, or guaranteeing corporation applicable to such period, and, during at least one of the last two years of such period, its net earnings shall have been not less than one and one-half times its fixed charges for such year; or if, at the date of acquisition, the obligations are ~~adequately secured and have investment qualities and characteristics wherein the speculative elements are not predominant~~ investment grade as defined by the commissioner by rule.

(2) However, with respect to fixed interest-bearing obligations which are issued, assumed, or guaranteed by a financial company, the net earnings by the financial company available for its fixed charges for the period of five fiscal years preceding the date of acquisition of the obligations by the insurance company shall have averaged per year not less than one and one-fourth times such average annual fixed charges of the issuing, assuming, or guaranteeing financial company applicable to such period, and, during at least one of the last two years of the period, its net earnings shall have been not less than one and one-fourth times its fixed charges for such year; or if, at the date of acquisition, the obligations are ~~adequately secured and speculative elements are not predominant in their investment qualities and characteristics~~ investment grade as defined by the commissioner by rule. As used in this subparagraph (2), "financial company" means a corporation which on the average over its last five fiscal years preceding the date of acquisition of its obligations by the insurer, has had at least fifty percent of its net income, including income derived from subsidiaries, derived from the business of wholesale, retail, installment, mortgage, commercial, industrial or consumer financing, or from banking or factoring, or from similar or related lines of business.

b. If adjustment, income, or other contingent interest obligations, the net earnings of the issuing, assuming, or guaranteeing corporation available for its fixed charges for a period of five fiscal years next preceding the date of acquisition of the obligations by such insurance company shall have averaged per year not less than one and one-half times such average annual fixed charges of the issuing, assuming, or guaranteeing corporation and its average

annual maximum contingent interest applicable to such period and, during at least one of the last two years of such period, its net earnings shall have been not less than one and one-half times the sum of its fixed charges and maximum contingent interest for such year, or if, at the date of acquisition, the obligations are ~~adequately secure and have investment qualities and characteristics and speculative elements are not predominant~~ investment grade as defined by the commissioner by rule.

Sec. 11. Section 511.8, subsection 6, paragraph a, subparagraph (1), subparagraph division (b), unnumbered paragraph 1, Code 2015, is amended to read as follows:

The net earnings available for fixed charges and preferred dividends of the issuing corporation shall have been, for each of the five fiscal years immediately preceding the date of acquisition, not less than one and one-half times the sum of the annual fixed charges and contingent interest, if any, and the annual preferred dividend requirements as of the date of acquisition; or at the date of acquisition the preferred stock ~~has is~~ investment qualities and characteristics wherein speculative elements are not predominant grade as defined by the commissioner by rule.

Sec. 12. Section 511.8, subsection 8, unnumbered paragraph 1, Code 2015, is amended to read as follows:

Securities included under subsections 5, 6, and 7, and subsection 9, paragraph "h", shall not be eligible:

Sec. 13. Section 511.8, subsection 8, paragraph b, unnumbered paragraph 1, Code 2015, is amended to read as follows:

The investments of any company or association in ~~such~~ the securities of a corporation shall not ~~be eligible in excess of~~ exceed the following percentages of the legal reserve of such company or association:

Sec. 14. Section 511.8, subsection 8, paragraph b, subparagraphs (1) and (2), Code 2015, are amended to read as follows:

(1) ~~With the exception of public securities~~ For any one corporation other than a public utility company, two percent of the legal reserve in the securities of any one corporation. Five ~~For any one public utility company, five percent of the legal reserve in the securities of any one public utility corporation.~~

(2) ~~Seventy-five percent of the legal reserve in the securities described in subsection 5 issued by other than public utility corporations. Fifty percent of the legal reserve in the~~ For securities described in subsection 5 issued by public utility corporations companies, fifty percent of the legal reserve.

Sec. 15. Section 511.8, subsection 9, Code 2015, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Mezzanine real estate loans subject to the following conditions:

(1) The terms of the mezzanine real estate loan agreement shall do all of the following:

(a) Require that each pledgor abstain from granting additional security interests in the equity interest pledged.

(b) Set forth techniques to minimize the likelihood or impact of a bankruptcy filing on the part of the real estate owner or the mezzanine real estate loan borrower consistent with the national association of insurance commissioners' accounting practices and procedures manual.

(c) Require the real estate owner or mezzanine real estate loan borrower to do all of the following:

(i) Hold no assets other than, in the case of the real estate owner, the real property, and in the case of the mezzanine real estate loan borrower, the equity interest of the real estate owner.

(ii) Not engage in any business other than, in the case of the real estate owner, the ownership and operation of the real estate, and in the case of the mezzanine real estate loan borrower, holding an ownership interest in the real estate owner.

(iii) Not incur additional debt, other than limited trade payables, a first mortgage loan, or mezzanine real estate loans.

(2) At the time of purchase, the sum of the first mortgage and the mezzanine real estate loans shall not exceed ninety percent of the value of the real estate evidenced by a current appraisal and the mezzanine real estate loan shall be classified as CM4 or better in accordance with the national association of insurance commissioners' rating methodology, or an equivalent or successor rating.

(3) The value of a company's or association's total investments qualified under this paragraph "h" shall not exceed three percent of the legal reserve subject to the following conditions:

(a) The value of a company's or association's total investments qualified under this paragraph "h" in mezzanine real estate loans classified as CM3 in accordance with the national association of insurance commissioners' rating methodology or an equivalent or successor rating at the time of purchase shall not exceed two percent of the legal reserve.

(b) The value of a company's or association's total investments qualified under this paragraph "h" in mezzanine real estate loans classified as CM4 in accordance with the national association of insurance commissioners' rating methodology or an equivalent or successor rating at the time of purchase shall not exceed one percent of the legal reserve.

(4) For purposes of this paragraph "h", "mezzanine real estate loan" means a loan secured by a pledge of a direct or indirect equity interest in an entity that owns real estate.

Sec. 16. Section 511.8, subsection 13, Code 2015, is amended to read as follows:

13. *Collateral loans.* Loans secured by collateral consisting of any ~~securities assets or investments~~ qualified in under this section, provided the amount of the loan is not in excess of ninety percent of the value of the ~~securities assets or investments~~. Provided further that subsection 8 shall apply to the collateral ~~securities assets or investments~~ pledged to the payment of loans ~~authorized in~~ qualified under this subsection.

Sec. 17. Section 511.8, subsection 18, paragraph a, Code 2015, is amended to read as follows:

a. (1) Common stocks, or shares, or equity interests issued by solvent corporations or institutions are eligible if the total investment in the common stocks, or shares in, or equity interests of the corporations or institutions does not exceed ten percent of legal reserve, provided not more than one-half percent of the legal reserve is invested in common stocks, or shares, or equity interests of any one corporation or institution. However, the not more than four percent of legal reserve shall be invested in common stocks, or shares shall be, or equity interests which do not meet one of the following requirements:

(a) Are listed or admitted to trading on an established foreign securities exchange or a securities exchange in the United States or shall be.

(b) Are publicly held and traded in the "over-the-counter market" and, provided that market quotations shall be readily available, and further, the investment.

(2) An investment in common stocks, shares, or equity interests shall not create a conflict of interest for an officer or director of the company between the insurance company and the corporation whose common stocks, or shares, or equity interests are purchased.

Sec. 18. Section 511.8, subsection 20, paragraph b, Code 2015, is amended to read as follows:

b. For purposes of this subsection, "venture capital fund" means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, whose principal business is or will be the making of investments in, and the provision of significant managerial assistance to, small businesses which meet the small business administration definition of small business. "Equity interests" means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability. "Venture capital fund" includes an equity interest in the Iowa fund of funds as defined in section 15E.62 and an equity interest in an innovation fund as defined in section 15E.52.

Sec. 19. Section 511.8, subsection 22, paragraphs c and d, Code 2015, are amended to read as follows:

c. Investments in financial instruments used in hedging transactions are not eligible in excess of two percent of the legal reserve in the financial instruments of any one corporation, less any securities of that corporation owned by the company or association and in which its legal reserve is invested, except insofar as the financial instruments are collateralized by cash, United States government obligations as authorized by subsection 1, or obligations of or guaranteed by a United States government-sponsored enterprise which on the date they are pledged as collateral are ~~adequately secured and have investment qualities and characteristics wherein the speculative elements are not predominant~~ investment grade as defined by the commissioner by rule, which are deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted.

d. Investments in financial instruments used in hedging transactions are not eligible in excess of ten percent of the legal reserve, except insofar as the financial instruments are collateralized by cash, United States government obligations as authorized by subsection 1, or obligations of or guaranteed by a United States government-sponsored enterprise which on the date they are pledged as collateral are ~~adequately secured and have investment qualities and characteristics wherein the speculative elements are not predominant~~ investment grade as defined by the commissioner by rule, which are deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted.

Sec. 20. Section 511.8, subsection 22, paragraph e, subparagraph (1), Code 2015, is amended to read as follows:

(1) Investments in financial instruments of foreign governments or foreign corporate obligations, other than Canada, used in hedging transactions shall be included in the limitation contained in subsection 19 that allows only twenty percent of the legal reserve of the company or association to be invested in such foreign investments, except insofar as the financial instruments are collateralized by cash, United States government obligations as authorized by subsection 1, or obligations of or guaranteed by a United States government-sponsored enterprise which on the date they are pledged as collateral are ~~adequately secured and have investment qualities and characteristics wherein the speculative elements are not predominant~~ investment grade as defined by the commissioner by rule, which are deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted.

Sec. 21. Section 514G.102, Code 2015, is amended to read as follows:

514G.102 Scope.

The requirements of this chapter apply to policies delivered or issued for delivery in this state on or after July 1, 2008. The requirements of this chapter related to independent review of benefit trigger determinations apply to all claims made on or after January 1, 2009. The requirements of this chapter related to prompt payment of claims and the payment of interest apply to all long-term care insurance policies. This chapter is not intended to supersede the obligations of entities subject to this chapter to comply with the substance of other applicable insurance laws not in conflict with this chapter, except that laws and regulations designed and

intended to apply to Medicare supplement insurance policies shall not be applied to long-term care insurance.

Sec. 22. Section 515.35, subsection 4, paragraph m, Code 2015, is amended to read as follows:

m. Venture capital funds. Shares or equity interests in venture capital funds which agree to invest an amount equal to at least fifty percent of the investments by a company in small businesses having their principal offices within this state and having either more than one-half of their assets within this state or more than one-half of their employees employed within this state. A company shall not invest more than five percent of its capital and surplus under this paragraph. For purposes of this paragraph, “*venture capital fund*” means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, whose principal business is or will be the making of investments in, and the provision of significant managerial assistance to, small businesses which meet the small business administration definition of small business. “*Equity interests*” means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability. “*Venture capital fund*” includes an equity interest in the Iowa fund of funds as defined in section 15E.62 and an equity interest in an innovation fund as defined in section 15E.52.

Sec. 23. Section 515.125, subsection 2, Code 2015, is amended to read as follows:

2. An insurer shall not fail to renew a policy except by notice to the insured as provided in this chapter. A notice of intention not to renew is not effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. A notice of intention not to renew is not required if the insured is transferred from an insurer to an affiliate for future coverage as a result of a merger, acquisition, or company restructuring and if the transfer results in the same or broader coverage insurance company admitted in Iowa which is an affiliate of, as defined in section 521A.1, the transferring insurer and all of the following conditions are met:

a. The transfer does not result in an interruption in coverage.

b. The rating of the affiliate from the A.M. Best company or a substitute rating service acceptable to the commissioner, is the same or better than the rating of the transferring insurer.

c. The transfer results in the same or broader coverage.

d. Notice of the transfer is delivered to the insured or sent by first class mail to the insured’s last known address not less than thirty days prior to the transfer. The notice required by this paragraph is not required in the event that the insured requests or consents to the transfer.

e. The notice of transfer provides the name and telephone number of the insured’s insurance producer, agent, or agency, if any.

Sec. 24. Section 515.128, subsection 3, Code 2015, is amended to read as follows:

3. This section applies to all forms of commercial property and casualty insurance written pursuant to this chapter. It does not apply if the insurer has offered to renew or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal. A notice of nonrenewal is not required if the insured is transferred from an insurer to an affiliate for future coverage as a result of a merger, acquisition, or company restructuring and if the transfer results in the same or broader coverage insurance company admitted in Iowa which is an affiliate of, as defined in section 521A.1, the transferring insurer and all of the following conditions are met:

a. The transfer does not result in an interruption in coverage.

b. The rating of the affiliate from the A.M. Best company or a substitute rating service acceptable to the commissioner, is the same or better than the rating of the transferring insurer.

c. The transfer results in the same or broader coverage.

d. Notice of the transfer is delivered to the insured or sent by first class mail to the insured’s last known address not less than forty-five days prior to the transfer. The notice required

by this paragraph is not required in the event that the insured requests or consents to the transfer.

e. The notice of transfer provides the name and telephone number of the insured's insurance producer, agent, or agency, if any.

Sec. 25. Section 521A.5, subsection 4, paragraph d, Code 2015, is amended to read as follows:

d. The board of directors of a domestic insurer shall establish one or more committees comprised solely of directors who or other persons appointed by the board, the majority of whom are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees shall have responsibility for recommending or nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers.

Sec. 26. Section 523A.102, subsection 8, Code 2015, is amended by striking the subsection.

Sec. 27. Section 523A.204, subsection 3, Code 2015, is amended to read as follows:

3. All records maintained by the commissioner under this section shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection or copying except upon the approval of the commissioner or the attorney general, or except when sought by the preneed seller to whom the records relate. Such records shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

a. An action commenced by the commissioner.

b. An administrative proceeding brought by the insurance division.

c. An action or proceeding which arises out of the criminal provisions of the laws of this state or of the United States.

d. An action brought by the insurance division or the attorney general to recover moneys for embezzlement, misappropriation, or misuse of trust funds.

Sec. 28. Section 523A.204, subsections 4 and 5, Code 2015, are amended by striking the subsections.

Sec. 29. Section 523A.205, subsection 2, Code 2015, is amended by striking the subsection.

Sec. 30. Section 523A.205, subsection 3, Code 2015, is amended to read as follows:

3. ~~Notwithstanding chapter 22, all~~ All records maintained by the commissioner under this section shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection or copying except upon approval of the commissioner or the attorney general, or except when sought by the financial institution to whom the records relate. Such records shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

a. An action commenced by the commissioner.

b. An administrative proceeding brought by the insurance division.

c. An action or proceeding which arises out of the criminal provisions of the laws of this state or of the United States.

d. An action brought by the insurance division or the attorney general to recover moneys for embezzlement, misappropriation, or misuse of trust funds.

Sec. 31. Section 523A.206, subsection 6, Code 2015, is amended by striking the subsection and inserting in lieu thereof the following:

6. All records maintained by the commissioner under this section, including work papers, notes, recorded information, documents, and copies thereof that are produced or obtained

by or disclosed to the commissioner or another person in the course of a compliance examination, shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection and copying except upon the approval of the commissioner or the attorney general. Such records shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

- a. An action commenced by the commissioner.
- b. An administrative proceeding brought by the insurance division.
- c. An action or proceeding which arises out of the criminal provisions of the laws of this state or of the United States.
- d. An action brought by the insurance division or the attorney general to recover moneys for embezzlement, misappropriation, or misuse of trust funds.

Sec. 32. Section 523A.207, Code 2015, is amended to read as follows:

523A.207 Audits by certified public accountants — penalty.

1. A purchase agreement shall not be sold or transferred, as part of the sale of a business or the assets of a business, until an audit has been performed by a certified public accountant and filed with the commissioner that expresses the auditor's opinion of the adequacy of funding related to the purchase agreements to be sold or transferred. If the buyer of a purchase agreement sold or transferred as part of the sale of a business or the assets of a business, fails to file such an audit, the commissioner shall suspend the preneed seller's license of the buyer and the preneed sales license of any sales agent in the employ of the buyer until the audit is filed. In addition, the commissioner shall assess a penalty against the buyer in an amount up to one hundred dollars for each day that the audit remains unfiled. The commissioner shall allow a thirty-day grace period after the date that a purchase agreement is sold or transferred before suspension of a license or assessment of a penalty for failure to file an audit pursuant to this section.

2. All records maintained by the commissioner under this section shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection or copying except upon approval of the commissioner or the attorney general, or except when sought by the preneed seller to whom the records relate. Such records shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

- a. An action commenced by the commissioner.
- b. An administrative proceeding brought by the insurance division.
- c. An action or proceeding which arises out of the criminal provisions of the laws of this state or of the United States.
- d. An action brought by the insurance division or the attorney general to recover moneys for embezzlement, misappropriation, or misuse of trust funds.

Sec. 33. Section 523A.401, subsection 8, Code 2015, is amended to read as follows:

8. An insurance company issuing policies funding purchase agreements subject to this chapter shall file an annual report with the commissioner on a form prescribed by the commissioner. The report shall list the applicable insurance policies outstanding for each seller. ~~Computer printouts may be submitted so long as each legibly provides the same information required in the prescribed form.~~

Sec. 34. Section 523A.401, Code 2015, is amended by adding the following new subsection:

NEW SUBSECTION. 10. All records maintained by the commissioner under this section shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection or copying except upon approval of the commissioner or the attorney general, or except when sought by the insurance company to whom the records relate. Such records shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

- a. An action commenced by the commissioner.
- b. An administrative proceeding brought by the insurance division.
- c. An action or proceeding which arises out of the criminal provisions of the laws of this state or of the United States.

d. An action brought by the insurance division or the attorney general to recover moneys for embezzlement, misappropriation, or misuse of trust funds.

Sec. 35. Section 523A.402, subsection 8, Code 2015, is amended to read as follows:

8. An insurance company issuing annuities funding purchase agreements subject to this chapter shall file an annual report with the commissioner on a form prescribed by the commissioner. The report shall list the applicable annuities outstanding for each seller. ~~Computer printouts may be submitted so long as each legibly provides the same information required in the prescribed form.~~

Sec. 36. Section 523A.405, Code 2015, is amended by striking the section and inserting in lieu thereof the following:

523A.405 Bond in lieu of trust fund.

The commissioner shall, by rule, establish terms and conditions under which a seller may, in lieu of trust requirements, file with the commissioner a surety bond issued by a surety company authorized to do business and doing business in this state.

Sec. 37. Section 523A.501, subsection 2, Code 2015, is amended to read as follows:

2. An application for a preneed seller's license shall be filed on a form and in a format prescribed by the commissioner and be accompanied by a fifty-dollar filing fee in an amount set by the commissioner by rule. The application shall include the name of the natural person or legal entity to be licensed as the preneed seller and, if applicable, any other name under which the preneed seller will be transacting business, including any names registered with the secretary of state or a county clerk. The application shall be updated as necessary to ensure that the commissioner has been notified of all names under which the preneed seller is operating and doing business.

Sec. 38. Section 523A.501, subsection 7, Code 2015, is amended to read as follows:

7. A preneed seller's license ~~shall be renewed every four years by filing the form prescribed by the commissioner under subsection 2, accompanied by a renewal fee in an amount set by the commissioner by rule~~ expires annually on April 15. If the preneed seller has filed a complete annual report and paid the required fees as required in section 523A.204, the commissioner shall renew the preneed seller's license until April 15 of the following year.

Sec. 39. Section 523A.502, subsection 5, Code 2015, is amended by striking the subsection and inserting in lieu thereof the following:

5. A sales license shall expire annually on April 15. If the sales agent has filed a substantially complete annual report as required in section 523A.502A, the commissioner shall renew the sales license until April 15 of the following year.

Sec. 40. Section 523A.502A, subsections 1 and 2, Code 2015, are amended to read as follows:

1. A sales agent shall file with the commissioner not later than April 1 of each year an annual report on a form prescribed by the commissioner describing each purchase agreement sold by the sales agent during the year. An annual report must be filed whether or not sales were made during the year and even if the sales agent is no longer an agent of a preneed seller or licensed by the commissioner.

2. All records maintained by the commissioner under this section shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection or copying except upon the approval of the commissioner or the attorney general, or except when sought by the sales agent to whom the records relate. Such records shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

a. An action commenced by the commissioner.

b. An administrative proceeding brought by the insurance division.

c. An action or proceeding which arises out of the criminal provisions of the laws of this state or of the United States.

d. An action brought by the insurance division or the attorney general to recover moneys for embezzlement, misappropriation, or misuse of trust funds.

Sec. 41. Section 523A.502A, subsections 3 and 4, Code 2015, are amended by striking the subsections.

Sec. 42. Section 523A.803, subsection 1, paragraph c, Code 2015, is amended by striking the paragraph.

Sec. 43. Section 523A.803, Code 2015, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. All records maintained by the commissioner under this section, including work papers, notes, recorded information, documents, and copies thereof that are produced or obtained by or disclosed to the commissioner or another person in the course of an investigation, shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection and copying except upon the approval of the commissioner or the attorney general. Such records shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

- a. An action commenced by the commissioner.
- b. An administrative proceeding brought by the insurance division.
- c. An action or proceeding which arises out of the criminal provisions of the laws of this state or of the United States.
- d. An action brought by the insurance division or the attorney general to recover moneys for embezzlement, misappropriation, or misuse of trust funds.

Sec. 44. Section 523A.807, subsection 3, unnumbered paragraph 1, Code 2015, is amended to read as follows:

If the commissioner finds that a person has violated section 523A.201, 523A.202, 523A.203, 523A.207, 523A.401, 523A.402, 523A.403, 523A.404, 523A.405, 523A.501, 523A.502, ~~or 523A.504~~ or any rule adopted pursuant thereto, the commissioner may order any or all of the following:

Sec. 45. Section 523I.810, subsection 9, Code 2015, is amended to read as follows:

9. A cemetery may, by resolution adopted by a vote of at least two-thirds of the members of its board at any authorized meeting of the board, authorize the withdrawal and use of not more than twenty percent of the principal of the care fund to acquire additional land for cemetery purposes, to repair a mausoleum or other building or structure intended for cemetery purposes, to build, improve, or repair boundaries, roads and walkways in the cemetery, to construct a columbarium, mausoleum, or similar structure to create additional interment spaces, to purchase equipment for tree, shrub, and lawn care, to purchase backhoes or similar equipment used to open and close interment spaces, or to purchase recordkeeping software used to maintain ownership records or interment records. The resolution shall establish a reasonable repayment schedule, not to exceed five years, ~~and provide for interest in an amount comparable to the care fund's current rate of return on its investments.~~ However, the care fund shall not be diminished below an amount equal to the greater of twenty-five thousand dollars or five thousand dollars per acre of land in the cemetery. The resolution, and if the deposit of care fund income over five years is unlikely to fund replenishment of the principal of the care fund, either a bond or proof of insurance to guarantee replenishment of the care fund, shall be filed with the commissioner thirty days prior to the withdrawal of funds.

Sec. 46. Section 523I.811, subsection 1, paragraph b, Code 2015, is amended to read as follows:

b. Maintaining drains, water lines, roads, buildings, boundaries, fences, and other structures.

Sec. 47. Section 523I.811, subsection 1, Code 2015, is amended by adding the following new paragraphs:

NEW PARAGRAPH. g. To purchase equipment to maintain the cemetery.

NEW PARAGRAPH. h. To purchase backhoes or similar equipment used to open and close interment spaces.

NEW PARAGRAPH. *i.* To purchase equipment used to construct a columbarium, mausoleum, or similar structure to create additional interment spaces.

Sec. 48. NEW SECTION. 523I.811A Emergency use of care funds.

1. Notwithstanding any other provision of this chapter, a perpetual care cemetery may apply to the commissioner to withdraw funds from the cemetery's care fund for a financial emergency. The commissioner shall, by rule, establish standards and procedures for such applications and for withdrawals from care funds.

2. Upon application, the commissioner may allow a perpetual care cemetery to withdraw funds from the care fund if the commissioner finds that the cemetery has an urgent financial need and the withdrawal is deemed reasonable and prudent to fund a necessary expense of the cemetery. The commissioner shall establish conditions for the specific use of the funds withdrawn and may require repayment of all or part of the amount withdrawn.

Sec. 49. EFFECTIVE DATE. The following provision or provisions of this Act take effect January 1, 2016:

1. The section of this Act adding section 502.202, subsection 24.

Sec. 50. EFFECTIVE UPON ENACTMENT. Unless otherwise provided, this Act, if approved by the governor on or after July 1, 2015, takes effect upon enactment.

Sec. 51. RETROACTIVE APPLICABILITY. Unless otherwise provided, this Act, with the exception of the section of this Act adding section 502.202, subsection 24, if approved by the governor on or after July 1, 2015, applies retroactively to July 1, 2015.

Sec. 52. DIRECTIONS TO CODE EDITOR. The Iowa code editor is directed to transfer section 515.11 to new section 515.23.

Sec. 53. REPEAL. Section 523A.504, Code 2015, is repealed.

Approved July 2, 2015